

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
Scott D. Musoff
Beverly A. Farrell
Four Times Square
New York, New York 10036
Tel.: (212) 735-3000
Fax: (212) 735-2000

Attorneys for Defendants Danka Business
Systems PLC, A.D. Frazier, W. Andrew
McKenna, Dr. Kevin C. Daly, Jaime W.
Ellertson, Christopher B. Harned, J.
Ernest Riddle, Erik Vonk, David Downes,
and Joseph E. Parzick

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DCML LLC,

Plaintiff,

v.

DANKA BUSINESS SYSTEMS PLC, A.D.
FRAZIER, W. ANDREW MCKENNA, DR. KEVIN :
C. DALY, JAIME W. ELLERTSON,
CHRISTOPHER B. HARNED, J. ERNEST :
RIDDLE, ERIK VONK, DAVID DOWNES,
JOSEPH E. PARZICK, and CYPRESS MERCHANT :
BANKING PARTNERS II LP,

Defendants.
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: 08 cv 5829 (SAS)

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: **ECF Case**

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: **Electronically Filed**

**NOTICE OF MOTION OF DANKA BUSINESS SYSTEMS PLC, A.D. FRAZIER,
W. ANDREW MCKENNA, DR. KEVIN C. DALY, JAIME W. ELLERTSON,
CHRISTOPHER B. HARNED, J. ERNEST RIDDLE, ERIK VONK, DAVID
DOWNES, AND JOSEPH E. PARZICK TO DISMISS DCML LLC'S FIRST
AMENDED COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6)**

PLEASE TAKE NOTICE THAT, upon the First Amended Complaint of DCML LLC
("DCML"); the accompanying declaration of Albert L. Hogan, III, and the exhibits attached
thereto; the accompanying Memorandum of Law in Support of the Motion of Danka Business

Systems PLC, A.D. Frazier, W. Andrew McKenna, Dr. Kevin C. Daly, Jaime W. Ellertson, Christopher B. Harned, J. Ernest Riddle, Erik Vonk, David Downes, and Joseph E. Parzick ("Moving Defendants") to Dismiss DCML LLC's First Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6); and all of the prior papers and proceedings herein, defendants Danka Business Systems PLC, A.D. Frazier, W. Andrew McKenna, Dr. Kevin C. Daly, Jaime W. Ellertson, Christopher B. Harned, J. Ernest Riddle, Erik Vonk, David Downes, and Joseph E. Parzick will move before the Honorable Shira A. Scheindlin, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, at a date and time to be designated by the Court, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing with prejudice DCML's First Amended Complaint and awarding such other and further relief as this Court may deem just and proper.

Moving Defendants certify that their counsel exchanged correspondence with Plaintiff's counsel in an effort to resolve the issues raised by this motion but were unable to reach any resolution or otherwise eliminate the need for this motion.

Dated: New York, New York
August 22, 2008

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP

By: /s/ Scott D. Musoff

Scott D. Musoff (scott.musoff@skadden.com)
Beverly A. Farrell (beverly.farrell@skadden.com)
Four Times Square
New York, New York 10036
Tel.: (212) 735-3000
Fax: (212) 735-2000

Of Counsel:
Albert L. Hogan, III
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
333 West Wacker Drive
Chicago, Illinois 60606
Tel.: (312) 407-0700
Fax: (312) 407-041

Attorneys for Defendants Danka Business
Systems PLC, A.D. Frazier, W. Andrew
McKenna, Dr. Kevin C. Daly, Jaime W.
Ellertson, Christopher B. Harned, J.
Ernest Riddle, Erik Vonk, David Downes,
and Joseph E. Parzick